

TAKING A DETACHED VIEW OF COMPANY RESTRUCTURING - ARAOZ & RUEDA

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Dos años después del comienzo de la crisis financiera, los abogados son mucho más conscientes de la complejidad de la regulación de la reestructuración y la insolvencia y los principales actores financieros son mucho más sofisticados en sus estrategias, dice Alejandro Fernández de Araoz de Araoz & Rueda.

Two years into the financial crisis, lawyers are now much more aware of the intricacies of Spain's restructuring and insolvency regulation and the major financial players are much more sophisticated

in their strategies, says Alejandro Fernández de Araoz of Araoz & Rueda in Madrid.

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"Many banks may have initially been relaxed about the situation they faced and willing to accept virtually any assets in lieu of payment. Now, because of the scale of the problems they see, banks are much less flexible and highly specific about what, if any, assets they are willing to accept."

Despite the best efforts to restructure and the fact that this seems to be the overriding goal of the Spanish Insolvency Law, a company that enters formal insolvency proceedings has very high chances to eventually fall into liquidation and never make it, he says.

"The volume of work facing the courts means that delays in the process can mean massive value destruction. Even relatively solvent companies have no guarantee of returning to the market."

The overriding question for those assessing a restructuring plan is "does this company remain viable". Banks are looking for a real value proposition and to ensure the incumbent management is capable of turning a company around, a company must be able to demonstrate a viable exit route remains for investors, says Fernández de Araoz.

"A restructuring programme requires a full analysis of a company's debt structure and often a strategic decision whether to deal with creditors collectively or on a syndicated basis.

The process nonetheless requires a war chest – to pay suppliers and advisers – and cover those costs vital to the continuing operation of the company."

Fundamental to the success of a restructuring also is the ability to take a pragmatic view of a company's situation, which can be helped by retaining a Chief Restructuring Officer.

"What is often vital is the ability to remain calm in extreme negotiations and to take a detached view. A company cannot jeopardise the potential for ongoing relations. This can make the difference between creditors accepting or rejecting any revised payment or restructuring programmes," believes Fernández de Araoz.